



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET ATLANTA, GEORGIA 30303-8960

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Circle Oak East, LLC
Attn: Mr. Clarence Nalley
3621 Vinings Slope
Suite 4200
Atlanta, Georgia 30339

RE: Information Request Letter 308-2021-04

Dear Mr. Nalley:

The U.S. Environmental Protection Agency has learned that a potential unauthorized discharge of dredged and/or fill material may have occurred in waters of the United States at your property located off Covered Bridge Road (Parcel ID 166 011) in Meriwether County, Georgia, near latitude 33.129283°N, longitude -84.555858°W (See Exhibit A and B of enclosed Information Request). According to our preliminary investigation, the discharge occurred in late 2018 in connection with the construction of an impoundment.

In order for the EPA to fulfill its responsibilities under Sections 309 and 404 of the CWA, 33 U.S.C. §§ 1319 and 1344, we need certain information to aid us in reaching an appropriate enforcement resolution. The EPA has been authorized to gather information pertaining to this matter under Section 308 of the CWA, 33 U.S.C. § 1318. Failure to respond to this letter, or falsification of any information in the response, may result in the issuance of an administrative, civil, or criminal action with penalties of up to \$52,414 per day.

The EPA would appreciate your assistance in providing the information requested in the enclosed Information Request. This information request is an effort to determine the circumstances surrounding the potential unauthorized activities on the property in question. Please provide the information requested in the Information Request within thirty (30) days of receipt of this letter. A hard copy of your response should be sent to the following address. In addition, we would request that the information also be emailed to strange.joel@epa.gov:

Mr. Joel Strange
U.S. Environmental Protection Agency
Waterways and Wetlands Enforcement Section,
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

After the EPA receives and reviews your response to this Information Request, the agency will contact you regarding scheduling a follow-up meeting or conference call to further discuss your responses in order to determine whether the EPA should take enforcement action against you with respect to this matter.

If you believe that any of the requested information is Confidential Business Information (CBI), you may assert a business confidentiality claim by stamping documents you wish to protect with a suitable stamp such as “confidential,” “trade secret,” or “CBI.” Please separate documents that you wish to protect as CBI from non-confidential documents.

If you do not assert a CBI claim, the EPA may make information submitted under this request available to the public without further notice to you. Additional information regarding the EPA's requirements for confidential treatment of information can be found in Subpart B, Part 2, 40 C.F.R. § 2.201 *et seq.*

The Securities and Exchange Commission (Commission) requires its registrants to periodically disclose environmental legal proceedings in statements filed with the Commission. To assist you, the EPA has enclosed a document entitled “Notice of Securities and Exchange Commission Registrants Duty to Disclose Environmental Legal Proceedings.”

We have also enclosed a document that provides information for small businesses that may be subject to an EPA enforcement action. This document is for your use and to assist you in understanding the compliance assistance resources and tools available to you.

If you have any questions concerning this matter, please contact Mr. Joel Strange at (404) 562-9455 or at strange.joel@epa.gov.

Sincerely,

Mary Jo Bragan
Chief
Water Enforcement Branch

Enclosure

ENCLOSURE A
EPA SECTION 308 INFORMATION REQUEST

Instructions

1. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this information request.
2. Precede each answer with the number of the Question to which it corresponds.
3. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.
4. You must provide the information requested even though you may contend that it includes confidential business information (CBI) such as trade secrets. You may, if you desire, assert a CBI claim covering part or all of the information requested, under 40 C.F.R. § 2.203(b), by attaching to such information at the time it is submitted, a cover sheet with the words “trade secret,” “proprietary,” or “company confidential” stamped or typed on it. Information covered by such claim will be disclosed by EPA only to the extent, and only by means, of the procedures set forth in the regulation set forth above. **If you do not assert a confidentiality claim, when you submit your information to the EPA, the EPA may disclose the information to the public without further notice to you.** You should read the above cited regulations carefully before asserting a CBI claim, since certain categories of information are not properly the subject of such a claim.

Definitions

The following definitions shall apply to the following words as they appear in the Questions below:

1. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in the Clean Water Act or its implementing regulations, in which case the statutory or regulatory definitions shall control.
2. Words in the masculine may be construed in the feminine if appropriate, and vice versa, and words in the singular may be construed in the plural if appropriate, and vice versa, in the context of a particular question or questions.
3. The terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside its scope.
4. The term “identify” means, with respect to a natural person, to set forth the person’s name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

5. The term “identify” means, with respect to a document, to provide its customary business description; its date; its number, if any (invoice or purchase order number); the identity of the author, addressee and/or recipient; and substance of the subject matter.
6. The term “identify” means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
7. The term “Discharge Areas” means the waters of the United States to include wetlands and tributaries that have been impacted either through filling, excavating or mechanical land clearing as a result of the construction of the impoundment that is the subject of this information request. More specifically, the Discharge Area is contained on the property located off Covered Bridge Road (Parcel ID 166 011) in Meriwether County, Georgia, near latitude 33.129283°N, longitude -84.555858°W. The Discharge Area is indicated on the enclosed Exhibits A and B.
8. The term “Site” means the parcel or parcels of land on which the Discharge Areas are located.
9. The term “Work” means any land clearing activities, ditching, dredging, side casting, road construction, stream crossing construction, dam construction, berm construction, mechanical land clearing, piping of streams or filling activities that have occurred in wetlands or other waters of the United States at the Site since you owned, controlled, or did any Work on the Site.
10. The term “you” and/or “Respondent” shall mean Clarence Nalley and/or Circle Oak East, LLC.

Questions

Please provide the EPA with the following information or documents pertaining to the Discharge Area identified in Exhibits A and B:

1. Copies of any deeds, leases, easements, or other documents revealing the ownership interest or interests in the Site. If owned by a corporation, please list the managers, officers or controlling parties.
2. The name and address of any contractor or individual who directed or participated in the Work at the Site.
3. The types of equipment used to carry out the Work.
4. The date upon which Work was commenced and the date upon which the Work was completed or will be completed.

5. A description of all Work at the Discharge Areas performed by the Respondent, or on behalf of the Respondent by its subcontractors or agents. In addition, list any entity other than the Respondent, its subcontractors, or agents who performed any Work on the Site.
6. A description of the entire scope of activities at the Discharge Areas including any maps and engineering plans. In addition, please identify the purpose for the construction of the impoundment. If the purpose of the impoundment is for waterfowl hunting, please identify if it is part of a club or has a fee for use.
7. A description of the condition of the overall Site and Discharge Areas before Work commenced.
8. Copies of any on-site environmental assessments that were done on soils, vegetation, or hydrology at the Site.
9. Copies of any Federal, State, or local permits that may have been received for the Work on the Site. This includes Meriwether County, United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), United States Army Corps of Engineers (COE) or the State of Georgia's Environmental Protection Division or Department of Natural Resources and the Georgia Forestry Commission.
10. Your reasons for not obtaining a Federal permit under Section 404 of the Clean Water Act prior to commencing the Work at the Site.
11. Plans for any additional land disturbing activities at the Site.
12. Copies of notes regarding any written or verbal communication you have had with Federal, State, or local agencies regarding the Work. Specifically, any documentation, consultation, forms, paperwork, notes, and/or contacts from the USDA or NRCS in reference to the Discharge Areas.
13. Copies of any contracts covering Work at the Site.
14. Please identify the individual or individuals who prepared the responses to this Information Request.

At the end of your response to this information request, please include the following certification: *I certify that I have personally reviewed the information contained in this response to the information request and the response is truthful, accurate and complete. I further certify that the response to the information request contains all documents responsive to the request. I am aware that there are significant penalties for submitting false information including the possibility of further enforcement under the CWA.*

Name and Title

**EXHIBIT A – DISCHARGE AREA
CIRCLE OAK EAST, LLC and MR. CLARENCE NALLEY
MERIWETHER COUNTY. GEORGIA**



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Imagery Date: 11/12/2020 lat 33.129007° lon -

EXHIBIT B - SITE
CIRCLE OAK EAST, LLC and MR. CLARENCE NALLEY
MERIWETHER COUNTY, GEORGIA

